THE HON'BLE SRI JUSTICE C.V. RAMULU

Tuesday, the 3rd day of April,2007

W.P.No.20737 of 2006

Between:-

M/s. Deccan Chronicle Group of
Publications, rep. by its Managing
Partner – Sri T.Venkat Rami Reddy … Petitioner

and

The Chairman-cum-Presiding
Officer, Industrial Tribunal-cum-
Labour Court, Ananthapur
and another … Respondents

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W.P.No.20737 of 2006

ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Order dated 20-9-2006 made in I.A.No.349 of 2006 in I.D.No.65 of 2005 on the file of the Industrial Tribunal-cum-Labour Court, Ananthapur and quash the same as arbitrary and illegal.

Petitioner is the Management. Respondent No.2 is the workman.

It appears, respondent No.2 raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') seeking reinstatement with all consequential benefits like continuity of service, full back wages and regularization of service. It was the case of the workman that he was appointed by the Management under Ex.W1-appointment Order dated 8-2-1995 as News Reporter, whereas it was the contention of the Management that the workman was never issued with any appointment order and the appointment order purported to have been marked by the workman is a fabricated one and the signature on the said document does not pertain to the Managing Partner of M/s.Deccan Chronicle Group of Publications. Under those circumstances, the management filed the present I.A.No.349 of 2006 praying to send the signature on Ex.W1 for handwriting expert and decide the same as a preliminary issue as it goes to the root of the matter in the interests of justice. The Tribunal, after hearing both the parties, held as under:

"This Interlocutory Application filed U/s 11(1) of the I.D. Act

praying the Court to send the signatures to the handwriting expert for his opinion.

Heard the counsel for the petitioner with regard to the maintainability of the petition. Petitioner wanted to send the disputed signature to an expert to compare the disputed signature found in the Ex.W1 filed by the respondent herein/workman in the above I.D.No.65/2005 relying on which the workman seeking relief. According to the petitioner herein/Management, the said document Ex.W1 appointment order dated 8-2-1995 is a forged one and that it was not signed by the Executive as contained in it. The petitioner herein also gave his specimen signature and these signatures required to be compared with the disputed signature which is not tenable. The disputed signature can be compared with the signatures of the petitioner which came into existence earlier in certain documents relating to the year 1995 or so. Further, Sec.73 of the Indian Evidence Act of 1872 empowers the Court to compare the disputed signature with other admitted signatures and come to a just conclusion.

Under the above circumstances, the disputed signature need not be sent to an expert for his opinion. Accordingly, the petition is dismissed."

Aggrieved by the said Order, the present Writ Petition is filed.

It is the case of the petitioner that the respondent-workman asserted that Ex.W1-order was issued by him and signature thereon was affixed by him. In fact, on an earlier occasion, the workman filed M.P.No.2 of 2000 under Section 33-C(2) of the Act stating that the signature affixed in Ex.W1 pertains to him. When he agitated, the Court sent the same for the finger prints expert. However, as the expert gave a preliminary opinion that the signature does not pertain to him, the Court did not send it for further examination and did not take the said document into consideration. The present I.D. has been filed seeking reinstatement and again the basis is only the purported appointment order-Ex.W1. Ex.W1 plays a vital role and, therefore, the same requires to be examined by the expert to prove the signature affixed on it; else, he would suffer irreparable loss. Further, the Tribunal without considering the case properly dismissed the petition

on the sole ground that the signature on Ex.W1 can be compared with other documents, under Section 73 of the Indian Evidence Act. According to the petitioner, the workman is a chronic litigant and filing false and vexatious cases against the Management and also against Andhra Prabha claiming himself as a Staff Reporter. Unless and until the document is sent for expert's opinion, the real truth will not come out.

A detailed counter affidavit has been filed by the 2nd respondent denying the allegations made by the petitioner. It is asserted that the contention of the petitioner that the expert gave his opinion in favour of the petitioner earlier is false, as the expert only stated that the pattern of disputed and admitted signatures are different and, therefore, he cannot compare the same. Having failed to comply with the requirement as was sought for by the expert, again seeking to avail the opportunity of sending the signature for the expert opinion is not sustainable. Further, the document can be sent for comparison of the disputed signatures with the admitted signatures after compliance of the conditions laid down under Section 73 of the Evidence Act and in the instant case, such a compliance was not made. Section 73 of the Evidence Act requires that a person, who is seeking expert's opinion on the disputed signatures, is to bring to the notice of the Court, the genuineness and admittedness of the specimen/admitted signatures and the same has to be proved to the satisfaction of the Court. Unless and until such genuineness is proved, signatures cannot be sent for comparison to the expert. The Labour Court has not yet done the preliminary exercise of examining the document under Section 73 of the Act; therefore, the application was rightly dismissed. No interference is called for by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Order and other material made available on record.

Strictly speaking, the Rules of Evidence are not applicable to the procedure to be followed in industrial adjudication before the Tribunal. This is the general principle. However, in a given case, if the circumstances require for the purpose of doing complete justice, it may require to follow certain procedure to rule out the possibility of any manipulation of the documents by sending them to the opinion of the expert. For doing complete justice, the industrial Court is not hidebound by the strict rules of evidence. Even in proceedings governed by the strict requirements and rules of the Evidence Act, it might not be correct to rule out certain instances altogether as irrelevant, because they might specifically become relevant as *res gestae.* Though in industrial adjudication, the evidence of recognition and identification may have to be considered, the requirement of recognition and identification cannot be stretched to import the standard of criminal trials. It is settled law that an industrial Tribunal has certain trappings of civil Court, but it cannot be considered to be a civil Court because the judicial functions performed by a Tribunal under the Industrial Disputes Act are different from those performed by ordinary Courts of law. Section 11-C of the Act confers power of a civil court under the Code of Civil Procedure on the Labour Court or Industrial Tribunal in respect of matters therein specified. The Labour Court or Tribunal would then proceed to decide the *lis* between the parties. It has to decide the *lis* on the evidence adduced before it. While it may not be hidebound by the rules prescribed in the Evidence Act it is nonetheless a quasi-judicial Tribunal proceeding to adjudicate upon a *lis* between the parties arrayed before it and must decide the

matter on the evidence produced by the parties before it. It would not be open to it to decide the *lis* on any extraneous considerations. Justice, equity and good conscience will inform its adjudication. Therefore, the Labour Court or the Industrial Tribunal has all the trappings of a Court.

It is the contention of the learned counsel for the 2nd respondent that the Managing Partner of the petitioner-firm has been changing his signatures time and again and the plea that the signature available on Ex.W1 does not belong to the Managing Partner is far from truth. Under these circumstances, at this stage before this Court, petitioner was directed to produce the signatures of the Managing Partner of the petitioner-firm available on the documents prior to 2000. Now, the petitioner has produced the appointment orders dated 5-5-1987 and 16-8-1999, partnership deed dated 18-11-1999 and a cheque dated 21-6-2000 of Canara Bank, R.P.Road, Secunderabad. However, on a plain examination of the disputed signature on document-Ex.W1 with a naked eye, it is clear that it does not tally with the admitted signatures on the said documents. The signatures of the Managing Partner-T.Venkat Rami Reddy on those documents are similar, but they are no way nearer to the disputed signature on Ex.W1. The said documents *prima facie* show that they are signed by one and the same person, but not the signature on Ex.W1. Under those circumstances, this is a fit case, where the admitted and disputed signatures be sent for comparison and opinion of the expert. Therefore, the impugned Order dated 20-9-2006 made in I.A.No.349 of 2006 in I.D.No.65 of 2005 on the file of the Industrial Tribunal-cum-Labour Court, Ananthapur is set aside and the matter is remanded to the Industrial Tribunal. Before the Tribunal, the parties are at liberty to file all the admitted and disputed documents and the Tribunal shall send the same for comparison and

opinion of the expert along with the documents as are required by the 2nd respondent.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

03-4-2007

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